

## **IC 11-12-5**

### **Chapter 5. County Jails: Work; Temporary Release**

#### **IC 11-12-5-1**

##### **Inmates; clean and orderly quarters; general maintenance work**

Sec. 1. (a) A person confined in a county jail may be required to keep his own living quarters clean and orderly.

(b) A person confined in a county jail upon conviction of a crime may be required to perform general maintenance work and assist in providing other services essential to the administration of the facility or program. As used in this subsection, "general maintenance work" does not include construction, remodeling, or repair of the facility. *As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.72-1992, SEC.2; P.L.1-1993, SEC.67.*

#### **IC 11-12-5-2**

##### **Temporary release from custody; purpose; eligibility**

Sec. 2. (a) The county sheriff may establish a program whereby persons who have been committed to the county jail upon conviction of a crime or adjudication of contempt may be temporarily released from custody to work, attend an academic or vocational training institution or program, or obtain medical, psychiatric, or psychological treatment, including treatment for drug addiction or alcoholism.

(b) A person is eligible for temporary release under this section unless:

- (1) the sentencing or committing court disapproves the person's release; or
- (2) the person has been convicted of a sex offense under IC 35-42-4 or IC 35-46-1-3.

(c) "Work" under this section includes assignment to a work party formed to perform any work the sheriff determines to be of benefit to the community.

(d) Persons on work parties formed under this section may be required to wear distinctive jail uniforms.

*As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.144-1995, SEC.2; P.L.264-1999, SEC.2.*

#### **IC 11-12-5-3**

##### **Earnings of person employed under this chapter; distribution; use of remaining amount; waiver of collection of room and board**

Sec. 3. (a) Any earnings of a person employed under this chapter, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against that person, shall be collected by the county sheriff, probation department, county office of the division of family resources, or other agency designated by the sentencing or committing court. Unless otherwise ordered by the court, the remaining earnings shall be distributed in the following

order:

- (1) To pay state and federal income taxes and Social Security deductions not otherwise withheld.
- (2) To pay the cost of membership in an employee organization.
- (3) Not less than fifteen percent (15%) of the person's gross earnings, if that amount of the gross is available after the above deductions, to be given to that person or retained for the person, with accrued interest, until the person's release or discharge.
- (4) To pay for the person's room and board provided by the county.
- (5) To pay transportation costs to and from work, and other work related incidental expenses.
- (6) To pay court ordered costs, fines, or restitution.

(b) After the amounts prescribed in subsection (a) are deducted, the remaining amount may be used to:

- (1) when directed by the person or ordered by the court, pay for the support of the person's dependents (if the person's dependents are receiving welfare assistance, the appropriate county office of the division of family resources or welfare department in another state shall be notified of such disbursements); and
- (2) with the consent of the person, pay to the person's victims or others any unpaid obligations of that person.

(c) Any remaining amount shall be given to the person or retained for the person according to subsection (a)(3).

(d) The collection of room and board under subsection (a)(4) may be waived.

*As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.2-1992, SEC.115; P.L.4-1993, SEC.16; P.L.5-1993, SEC.29; P.L.146-2008, SEC.373; P.L.44-2009, SEC.8.*

#### **IC 11-12-5-4**

##### **Application of IC 11-12-5-2 and IC 11-12-5-3**

Sec. 4. Sections 2 and 3 of this chapter do not apply to a person serving a term of imprisonment under IC 35-38-2-2.3(c).

*As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.5-1988, SEC.62; P.L.1-1991, SEC.99.*

#### **IC 11-12-5-5**

##### **Health care copayments**

Sec. 5. (a) This section does not apply to a person confined to a county jail who:

- (1) maintains a policy of insurance from a private company covering:
  - (A) medical care;
  - (B) dental care;
  - (C) eye care; or
  - (D) any other health care related service; or

(2) is willing to pay for the person's own medical care.

(b) Except as provided in subsection (c), a person confined to a county jail may be required to make a copayment in an amount of not more than fifteen dollars (\$15) for each provision of any of the following services:

- (1) Medical care.
- (2) Dental care.
- (3) Eye care.
- (4) Any other health care related service.

(c) A person confined to a county jail is not required to make the copayment under subsection (b) if:

- (1) the person does not have funds in the person's commissary account or trust account at the time the service is provided;
- (2) the person does not have funds in the person's commissary account or trust account within sixty (60) days after the service is provided;
- (3) the service is provided in an emergency;
- (4) the service is provided as a result of an injury received in the county jail; or
- (5) the service is provided at the request of the sheriff or jail administrator.

(d) Money collected must be deposited into the county medical care for inmates fund.

(e) Rules for the implementation of this section must be approved by the county legislative body.

*As added by P.L. 72-1994, SEC.1. Amended by P.L. 143-1995, SEC.2; P.L. 102-2002, SEC.1.*

#### **IC 11-12-5-5.5**

#### **County reimbursement for health care services provided to person subject to lawful detention**

Sec. 5.5. (a) As used in this section, "charge description master" means a listing of the amount charged by a hospital for each service, item, and procedure:

- (1) provided by the hospital; and
- (2) for which a separate charge exists.

(b) As used in this section, "health care services" includes health care items and procedures.

(c) As used in this section, "lawful detention" means the following:

- (1) Arrest.
- (2) Custody following surrender in lieu of arrest.
- (3) Detention in a penal facility.
- (4) Detention for extradition or deportation.
- (5) Custody for purposes incident to any of the above, including transportation, medical diagnosis or treatment, court appearances, work, or recreation.

The term does not include supervision of a person on probation or

parole or constraint incidental to release with or without bail.

(d) This section:

(1) does not apply in the case of a person who is subject to lawful detention by a county sheriff and is:

(A) covered under private health coverage for health care services; or

(B) willing to pay for the person's own health care services;

(2) does not apply to an inmate receiving inpatient services under IC 36-2-13-19; and

(3) does not affect copayments required under section 5 of this chapter.

(e) Except as provided in subsections (f) and (g), a county that is responsible for payment for health care services provided to a person who is subject to lawful detention by the county's sheriff shall reimburse:

(1) a physician licensed under IC 25-22.5;

(2) a hospital licensed under IC 16-21-2; or

(3) another health care provider;

for the cost of a health care service at the federal Medicare reimbursement rate for the health care service provided plus four percent (4%).

(f) Except as provided in subsection (g), if there is no federal Medicare reimbursement rate for a health care service described in subsection (e), the county shall do the following:

(1) If the health care service is provided by a hospital, the county shall reimburse the hospital an amount equal to sixty-five percent (65%) of the amount charged by the hospital according to the hospital's charge description master.

(2) If the health care service is provided by a physician or another health care provider, the county shall reimburse the physician or health care provider an amount equal to sixty-five percent (65%) of the amount charged by the physician or health care provider.

(g) A county described in subsection (e) or (f) may reimburse a health care provider described in subsection (e)(1), (e)(2), or (e)(3) at a lower reimbursement rate than the rate required by subsection (e) or (f) if the county enters into an agreement with a health care provider described in subsection (e)(1), (e)(2), or (e)(3) to reimburse the health care provider for a health care service at the lower reimbursement rate.

*As added by P.L.80-2009, SEC.1. Amended by P.L.205-2011, SEC.1; P.L.185-2015, SEC.6.*

## **IC 11-12-5-6**

### **Medical care expenses**

Sec. 6. (a) As used in this section, "medical care expenses" refers to expenses relating to the following services provided to a county jail inmate:

- (1) Medical care.
- (2) Dental care.
- (3) Eye care.
- (4) Any other health care related service.

(b) The medical care expenses of a person committed to a county jail by another county are the responsibility of the committing county.

(c) The medical care expenses of a person committed to a county jail by the department of correction are the responsibility of the department of correction.

*As added by P.L.141-1999, SEC.1.*

#### **IC 11-12-5-7**

##### **Reimbursement of inmate medical care expenses**

Sec. 7. (a) As used in this section, "medical care expenses" refers to expenses relating to the following services provided to a county jail inmate:

- (1) Medical care.
- (2) Dental care.
- (3) Eye care.
- (4) Any other health care related service.

(b) Notwithstanding section 6 of this chapter and subject to subsection (c), as a term of a sentence, a court may order a county jail inmate to reimburse a county for all or a portion of medical care expenses incurred by the county in providing medical care to the inmate.

(c) A county jail inmate may not be required to reimburse a county for medical care expenses under this section if:

- (1) all the charges for which the inmate was detained in the county jail are dismissed; or
- (2) the inmate is acquitted of all charges for which the inmate was detained in the county jail.

(d) In determining the amount of reimbursement that an inmate may be required to pay under subsection (b), the court shall consider the inmate's ability to pay.

(e) If a court orders a county jail inmate to reimburse a county for medical care expenses under subsection (b), the amount of the medical care expenses shall be reduced by the amount of any copayment the inmate was required to make for the medical care expenses under IC 11-10-3-5 or section 5 of this chapter.

(f) Subject to subsection (c), if a county incurs medical care expenses in providing medical care to an inmate and the medical care expenses are not reimbursed, the county shall attempt to determine the amount, if any, of the medical care expenses that may be paid:

- (1) by a policy of insurance that is maintained by the inmate and that covers medical care, dental care, eye care, or any other health care related service; or
- (2) by Medicaid.

*As added by P.L.213-2005, SEC.2. Amended by P.L.205-2013, SEC.171.*

#### **IC 11-12-5-8**

##### **Return of unused medications, medical devices, or medical supplies**

Sec. 8. (a) This section applies to the return of:

- (1) unused medications that meet the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6); and
- (2) unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of IC 25-26-13-25(l).

(b) The county sheriff:

- (1) shall return medication that belonged to a Medicaid recipient; and
- (2) may return other unused medication;

to the pharmacy that dispensed the medication if the unused medication meets the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6).

(c) The county sheriff may return unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of IC 25-26-13-25(l) to a pharmacy or pharmacist.

(d) A pharmacist or pharmacy that enters into an agreement with the county sheriff to accept the return of:

- (1) unused medications that meet the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6); or
- (2) unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of IC 25-26-13-25(l);

may negotiate with the county sheriff a fee for processing the returns.

*As added by P.L.174-2011, SEC.2. Amended by P.L.159-2012, SEC.2.*

#### **IC 11-12-5-9**

##### **Assistance in applying for Medicaid before release or discharge; timing of assistance; contract with outside entity**

Sec. 9. (a) This section is effective beginning September 1, 2015.

(b) For an offender who is incarcerated for less than thirty (30) days, a sheriff, in consultation with the county executive or a person designated by the county executive, may:

- (1) assist an offender in applying for Medicaid; and
- (2) act as the offender's Medicaid authorized representative as described in IC 11-10-3-7;

so that the offender might be eligible for coverage when the offender is subsequently released from the county jail.

(c) Before discharge or release from a county jail of an offender incarcerated for at least thirty (30) days, the sheriff, in consultation with the county executive or a person designated by the county

executive in the county in which the incarcerated person is located shall assist the offender in applying for Medicaid, if eligible, as the authorized representative as described in IC 11-10-3-7 or as a health navigator under the requirements of IC 27-19-2-12, so that the offender might be eligible for coverage when the offender is subsequently released from the county jail.

(d) The sheriff shall provide the assistance described in subsection (c) in sufficient time to ensure that the offender will be able to receive coverage at the time the offender is released from the county jail.

(e) A county executive may contract with any entity that complies with IC 27-19-2-12, including a hospital or outreach eligibility worker, to assist with Medicaid applications under this section. A county executive may develop intergovernmental agreements with other counties to provide both authorized representative and health navigator services required under this section. Upon a determination that an incarcerated individual qualifies for Medicaid coverage, the office of the secretary of family and social services, division of family resources, shall authorize and then immediately suspend Medicaid coverage for those inmates not requiring immediate medical attention.

*As added by P.L.185-2015, SEC.7.*

#### **IC 11-12-5-10**

##### **Assistance in securing treatment for mental illness or addictive disorder; timing of assistance; outside entity assistance**

Sec. 10. (a) This section is effective beginning September 1, 2015.

(b) The sheriff, in consultation with the county executive or a person designated by the county executive, shall assist an offender who has a mental illness or addictive disorder in securing treatment for the mental illness or for substance abuse addiction, as the authorized representative as described in IC 11-10-3-7 or as a health navigator under the requirements of IC 27-19-2-12, so that the offender might be eligible for treatment when the offender is subsequently released from the county jail or required to receive inpatient psychiatric services while incarcerated to the extent authorized under federal law.

(c) The sheriff shall provide the assistance described in subsection (b) in sufficient time to ensure that the offender will be able to receive treatment at the time the committed offender is released from the county jail.

(d) A sheriff shall use a community mental health center (as defined in IC 12-7-2-38) or a provider certified or licensed by the division of mental health and addiction, including a hospital or outreach eligibility worker, to assist with securing treatment for a mental illness or addictive disorder through the Medicaid program under this section.

*As added by P.L.185-2015, SEC.8.*